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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,733	06/29/2001	J. Rob Bowers	14531.110	9135
7590	09/07/2006		EXAMINER	
RICK D. NYDEGGER WORKMAN, NYDEGGER & SEELEY 1000 Eagle Gate Tower 60 East South Temple Salt Lake City, UT 84111			VAN HANDEL, MICHAEL P	
			ART UNIT	PAPER NUMBER
			2623	
			DATE MAILED: 09/07/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/896,733	BOWERS, J. ROB
	Examiner	Art Unit
	Michael Van Handel	2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 June 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2,4-13,15-30 and 38-48 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,2,4-13,15-30,38-48 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This action is responsive to an Amendment filed 6/20/2006. Claims **1, 2, 4-13, 15-30, 38-48** are pending. Claims **1, 10, 11, 25, 38** are amended. Claims **3, 14, 31-37** are canceled.

Response to Arguments

1. Applicant's arguments filed 6/20/2006 with respect to claims **1, 20, 11, 25**, and **38** have been considered, but are moot in view of the new ground(s) of rejection.

Claim Objections

1. Claim **10** is objected to because of the following informalities:

Referring to claim **10**, the phrase “the aggregation module” lacks antecedent basis. The examiner recommends that the phrase be changed to “an aggregation module.” The examiner interprets the claim in the Office Action below as though the recommended changes have been made.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 2, 4, 6, 10, 11, 12, 21, 25, 27, 28, 38-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki.

Referring to claims 1, 10, 11, 25, 27, 28, and 38-41, Suzuki discloses a method/computer program product/system for providing real-time streaming media from a wide area network to a plurality of receivers in a system having a plurality of receivers and at least one aggregation module; the method comprising the following acts:

- (a) receiving at at'least one aggregation module a request for real-time streaming media accessible via a wide area network from each of a plurality of receivers, each request comprising an identifier representative of the receiver making the request (the examiner notes that it is inherent that the system employ identifiers in order to keep track of which terminals are requesting media)(col. 18, l. 59-67 & Fig. 20);
- (b) after act (a), using the at least one aggregation module, aggregating a plurality of requests into a single request (col. 18, l. 66-67 & col. 19, l. 1-3) and sending the single request for a single copy of the real-time streaming media to the wide area network (the examiner notes that a single unified request is issued to server 20 and the data N is transferred to server 10. The examiner interprets this to be a single request for a single copy of the media)(col. 19, l. 3-8 & Fig. 20);
- (c) after act (b), buffering the single copy of the real-time streaming media at the at least one aggregation module (col. 18, l. 53-58 & col. 19, l. 8-14); and
- (d) using the buffered single copy of the real-time streaming media, delivering the streaming media to the plurality of receivers (col. 18, l. 1-9, 53-58).

Further referring to claims **11** and **25**, Suzuki discloses sending the single request for a single copy of the streaming media to the network through a proxy module in communication with the aggregation module (col. 19, l. 3-8). Suzuki also discloses delivering a stream of the buffered copy of the streaming media to a termination system (connection between the buffer and terminal) for transmission to each of the plurality of receivers (col. 18, l. 1-9 & Fig. 20), wherein each of the plurality of receivers receives substantially the same packets of the buffered copy of the streaming media (Suzuki discloses supplying data N to a plurality of terminals (col. 18, l. 50-67 & col. 19, l. 1-10).

Further referring to claim **38**, Suzuki discloses delivering the requested media in a format selected by the access module based upon changes to the first connection rate as media is delivered to two or more of the plurality of receivers (the examiner notes that if the media is stored in a buffer from a first user requesting the media, the data management unit 4 can decide to retrieve it from the buffer for the second user if the access time is faster than from the multimedia data storage device)(col. 14, l. 56-67; col. 15, l. 11-53; & col. 18, l. 40-49).

NOTE with regard to claim **40**: The USPTO considers the applicant's "at least one of" language to be anticipated by any reference containing any of the subsequent corresponding elements.

Referring to claim **2**, Suzuki discloses a method as recited in claim 1, wherein the at least one aggregation module is remote from at least one of the plurality of receivers (since the buffers are connected to the terminals, the terminals are remote from the multimedia server)(col. 18, l. 1-9, 53-58 & Fig. 20).

Referring to claim 4, Suzuki discloses a method as recited in claim 1, further comprising delivering separate instances of the streaming media to the plurality of receivers by the at least one aggregation module (col. 9, l. 54-61).

Referring to claim 6, Suzuki discloses a method as recited in claim 1, further comprising delivering the streaming media to each of the plurality of receivers by a multicast broadcast (the examiner notes that each buffer may support a plurality of terminals)(col. 18, l. 53-58).

Referring to claim 12, Suzuki discloses a method as recited in claim 11, wherein the network is selected from the group consisting of a wide area network (Fig. 20) and a local area network.

NOTE: The USPTO considers the applicant's "selected from the group consisting of" language to be anticipated by any reference containing any of the subsequent corresponding elements.

Referring to claim 21, Suzuki discloses a method as recited in claim 11, wherein the request comprises at least one addressing mechanism for network resources (a terminal requests a data N)(col. 18, l. 64-67) and at least one identifier representative of a requesting receiver of the plurality of receivers delivering the request to the aggregation module (the examiner notes that it is inherent that the system employ identifiers in order to keep track of which terminals are requesting media).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims **5, 7, 15-17, 20, 29, 30, 42, and 48** are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki in view of Kuhn.

Referring to claims **5, 7, 15, 20, 29, 30, 42, and 48**, Suzuki discloses a method/computer program product/system as recited in claims 1, 7, 11, 27, and 41. Suzuki does not specifically disclose selecting a media format. Kuhn discloses transcoding multimedia data into various media formats (i.e., MPEG)(Paragraphs. 1, 23, & 45). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Suzuki to include transcoding multimedia data into various media formats, such as that taught by Kuhn in order to allow a greater variety of receivers to use the system.

NOTE: The USPTO considers the applicant's "at least one of" language to be anticipated by any reference containing any of the subsequent corresponding elements.

Claim **16** mirrors the language of claim 4. Thus, it is analyzed and rejected as discussed therein.

Claim **17** is encompassed within the language of claim 1. Thus, it is analyzed and rejected as discussed therein.

3. Claims **8, 9, and 26** are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki in view of Durana et al.

Referring to claims **8** and **9**, Suzuki discloses a method as recited in claim 1. Suzuki does not specifically disclose the use of used and unused channels and identifying when to deliver a single copy of real-time streaming media to the plurality of receivers by at least one of the

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plurality of unused channels. Durana et al. discloses utilizing multiple used and unused channels (Abstract; col. 2, l. 5-13; & col. 7, l. 19-37). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Suzuki to include utilizing multiple used and unused channels and identifying when to use unused channels, such as that taught by Durana et al. in order to greater transmission flexibility.

Referring to claim 26, Suzuki discloses a computer program product as recited in claim 25. Suzuki does not disclose program code means for generating each request from each of the plurality of receivers using an input device. Durana et al. discloses the use of such a remote control device (col. 4, l. 4-11). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Suzuki to include the use of a remote control device, such as that taught by Durana et al. in order to provide a more user-friendly system.

4. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki.

Referring to claims 13, Suzuki discloses a method as recited in claim 12. Suzuki does not disclose that the network is the Internet; however, the examiner takes Official Notice that, at the time of the invention, the use of an Internet-based communications networks was notoriously well known in the art. It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the system of Suzuki to include an Internet-based communications network, such as that taught by the prior art in order to provide a more flexible communications platform.

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5. Claims **18** and **19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki in view of Kuhn and further in view of Durana et al.

Referring to claim **18**, the combination of Suzuki and Kuhn teaches a method as recited in claim 15. The combination of Suzuki and Kuhn does not disclose that each of the plurality of receivers includes at least one channel for receiving programming and at least one unused channel in the associated system. Durana et al. discloses utilizing multiple used and unused channels (Abstract; col. 2, l. 5-13; & col. 7, l. 19-37). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the combination of Suzuki and Kuhn to include utilizing multiple used and unused channels, such as that taught by Durana et al. in order to provide greater transmission flexibility.

Referring to claim **19**, the combination of Suzuki, Kuhn, and Durana et al. teaches a method as recited in claim 18. Suzuki does not disclose that the system is a cable system, a television system, or a satellite system. Durana et al. discloses utilizing a cable television system (col. 4, l. 4-7). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the combination of Suzuki, Kuhn, and Durana et al. to include utilizing a cable television system, such as that taught by Durana et al. in order to take advantage of existing distribution networks.

6. Claims **22-24** are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki in view of McClain et al.

Referring to claims **22-24**, Suzuki discloses a method as recited in claim 21. Suzuki does not specifically disclose comparing a rating associated with a URL against a stored list of ratings

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to determine whether content associated with the at least one URL is to be delivered to the requesting receiver, wherein the comparing occurs upon the proxy module delivering content retrieved from the network to the aggregate module. McClain et al. discloses comparing a rating code associated with a web page (i.e., URL) against a stored policy list (i.e., rating list) at a proxy module, in order to determine if the requesting receiver is authorized to receive said requested content (Abstract & col. 2, l. 17-35, 55-65). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Suzuki to include comparing a rating code associated with a web page against a stored policy list, such as that taught by McClain et al. in order to prevent unauthorized accessing of content.

7. Claims 43-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki in view of Brown.

Referring to claim 43, Suzuki discloses a system as recited in claim 38. Suzuki does not disclose that the aggregation module is configured to dynamically vary delivery of the requested media as either independent streams or as a multicast depending on traffic load on the network. Brown discloses transmitting a video on demand program (i.e., unicast) or near video on demand program (i.e., multicast) based upon network traffic (Abstract & col. 2, l. 55-67). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify Suzuki to include transmitting a video on demand program or near video on demand program based upon network traffic, such as that taught by Brown in order efficiently utilize available network resources.

Claim 44 is encompassed by claim 6. Thus, it is analyzed and rejected as discussed therein.

Claim 45 is encompassed by claim 6. Thus, it is analyzed and rejected as discussed therein.

8. Claims 46 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki in view of Brown and further in view of Durana et al.

Referring to claims 46 and 47, the combination of Suzuki and Brown teaches a system as recited in claim 45. The combination of Suzuki and Brown does not teach that each of the receivers is capable of displaying a plurality of video channels, at least one of the plurality of video channels being unused. Durana et al. discloses utilizing multiple used and unused channels (Abstract; col. 2, l. 5-13; & col. 7, l. 19-37). It would have been obvious to one of ordinary skill in the art at the time that the invention was made to modify the combination of Suzuki and Brown to include utilizing multiple used and unused channels, such as that taught by Durana et al. in order to provide greater transmission flexibility.

Conclusion

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bommaiah et al. discloses a method for streaming multimedia information over public networks.

Li et al. discloses an interactive video-on-demand system.

Lumelsky et al. discloses a system and method for integrated load distribution and resource management in an Internet environment.

Baker et al. discloses a multi-cast digital video data server using synchronization groups.

Graves et al. discloses aggregating resource requests from multiple individual requestors.

Mukherjee et al. discloses a method for efficient and scalable interaction in a client-server system in the presence of bursty client requests.

Hendricks et al. discloses a network manager for cable television system headends.

Kermode et al. discloses a system and method for a multicast video-on-demand delivery system.

Vishlitzky et al. discloses prefetching to service multiple video streams from an integrated cached disk array.

Nam et al. discloses a mediate server and real time delivery method between different networks.

Gordon et al. discloses a system for managing the addition/deletion of media assets within a network based on usage and media asset metadata.

Diwan discloses systems and methods for generating customized bundles of information.

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Van Handel whose telephone number is 571.272.5968. The examiner can normally be reached on Monday-Friday, 8:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571.272.7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Note to Applicant

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Art Units 2611, 2614 and 2617 have changed to 2623. Please make all future correspondence indicate the new designation 2623.

Michael Van Handel
Examiner
Art Unit 2623

MVH


CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600